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Attorneys for Non-Party Nintendo of America Inc.

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

FEDERAL TRADE COMMISSION

Plaintiff,

v.

MICROSOFT CORPORATION,

and

ACTIVISION BLIZZARD, INC.

Defendants.

Case No. 23-cv-02880-JSC

**NON-PARTY NINTENDO OF AMERICA
INC. UNOPPOSED MOTION FOR
ORDER CHANGING TIME**

I. INTRODUCTION

Pursuant to N.D. Cal. Civil Local Rule 6-3 (“Civil L.R.”), Non-Party Nintendo of America Inc. (“NOA”) respectfully requests an extension of time to file its statement and/or declaration in accordance with Civil L.R. 79-5(f). Plaintiff Federal Trade Commission (“FTC”) indicated that it does not oppose this request, and Defendants Microsoft Corp. and Activision Blizzard Inc. (collectively, “Defendants”) have consented to this request.

II. BACKGROUND

On June 16, 2023, Defendants filed their Memorandum of Law in Opposition to Motion for Preliminary Injunction (“Memorandum”) and accompanying exhibits. (Declaration of Benjamin P. Argyle, June 22, 2023 (“Argyle Decl.”), ¶ 5). (Dkt. No. 108). The Memorandum cites to a Nintendo witness’s deposition that was taken during the course of discovery in *In the Matter of Microsoft Corp. and Activision Blizzard, Inc.*, before the FTC Office of Administrative Law Judges, Docket No. 9412, the transcript of which is attached as an exhibit (Dkt. No. 108-43). (Argyle Decl., ¶ 5). NOA did not receive notice of the Memorandum’s and exhibit’s filing until five days later, on June 21, 2023, at 9:20 pm ET (Argyle Decl. ¶ 6).

III. ARGUMENT

When a party wishes to file a document that has been designated as confidential by another party or non-party, the filing party must file an Administrative Motion to Consider Whether Another Party’s Material Should Be Sealed. Civil L.R. 79-5(f). Importantly, the Filing Party must serve the motion on the Designating Party the same day the motion is filed. Civil L.R. 79-5(f)(2). The designating party typically has seven (7) days to file a statement and/or declaration stating its position in response. Civil L.R. 79-5(f)(3).

Due to Defendants delay in notifying and serving NOA, NOA now has only two (2) days in which to prepare and file its confidentiality statement and/or declaration. To allow NOA time to review the exhibit and prepare its filing, NOA respectfully requests the Court grant a four-day extension, to Tuesday, June 27, 2023, 5:00 pm PT. This deadline will also align with NOA’s current intention to file its Civil L.R. 79-5(f) statement and/or declaration for all the NOA-related depositions transcripts in their entirety that the parties intend to file on the Court’s docket.

(Argyle Decl. ¶ 8).

Counsel for NOA conferred with counsel for FTC and they do not oppose this motion.

(Argyle Decl. ¶ 9). Counsel for NOA conferred with counsel for Defendants and they consent to this motion. (Argyle Decl. ¶ 10).

IV. CONCLUSION

For the foregoing reasons, non-party NOA respectfully requests the Court enter an extension for NOA to file its Civil L.R. 79-5(f) statement and/or declaration related to Defendants Memorandum of Law in Opposition to Motion for Preliminary Injunction (Dkt Nos. 108 *et seq.*) to Tuesday, June 27 by 5:00 pm PT.

Dated: June 22, 2023

VENABLE LLP

By: /s/ Steven E. Swaney
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